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VIA ECF

Honorable P. Kevin Castel
United States District Judge
United States District Court
for the Southern District of New York
500 Pearl Street
New York, New York 10007-1312

March 14, 2023
*The undersigned
will not force unwilling
defendants to mediate
Order of Referral (ECF 78)
is VACATED.
SO ORDERED*

Re: Rusfeldt v. City of New York, et al., No. 22 Civ. 0594 (PKC)

Your Honor:

[Signature]
3-15-23

I am a Senior Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel for the City of New York, and the attorney assigned to the above-captioned matter. The City writes concerning the Court's Order referring this case to mediation (ECF No. 78).

Since the parties appeared before the Court on March 2nd, the City has evaluated its position on this case and concluded that it is not prepared to make any settlement offer at this time. It is the City's position that, while this case presents an interesting question of law, the facts are in the City's favor, and it is not in the City's interest to make a settlement offer at this time. The City therefore believes that the currently scheduled mediation would be a waste of the parties' and the Court's time and resources. The City is prepared to continue with discovery to prepare this case for dispositive motions practice by the close of discovery.

The Mediation office has appointed the Honorable Henry Pitman (Ret.) as Mediator in this matter, and Judge Pitman has scheduled a preliminary conference call with the parties for this Friday, March 17, 2023 at 1:00 p.m. Last week, the City informed plaintiff and Judge Pitman that it was still evaluating its position, and that it might seek the relief requested in this letter rather than proceed to mediation.

For the foregoing reasons, the City respectfully requests that the Court terminate the referral to mediation at this time.

Thank you for the Court's attention to this matter.

Respectfully submitted,

[Signature]
Tobias E. Zimmerman
Senior Counsel
Special Federal Litigation Division

cc: All Counsel (via ECF)